

**REMARKS**

Claims 1, 4-12, 14 and 17-19 are pending in the present application. By this Response, claims 1, 4-12, 14 and 17-19 are amended and claims 2, 3, 15 and 16 are canceled. Claims 1 and 14 are amended to incorporate subject matter similar to canceled claims 2, 3, 15 and 16. Claims 4-7, 11 and 17-19 are amended to correct their dependency in view of the cancellation of claims 3 and 16. Claims 8, 9 and 10 are amended to correct for antecedent basis. Claim 12 is amended to more clearly recite the subject matter which Applicants regard as the invention. Support for the amendment may be found at least on page 22, line 21 of the present specification. Reconsideration of the claims in view of the above amendments and the following remarks is respectfully requested.

**I. Defective Declaration**

A new declaration indicating the correct Application number of 99480011.8 is in the process of being signed and will be submitted as soon as all of the Inventors can be reached.

**II. 35 U.S.C. § 112, Second Paragraph**

The Office Action rejects claims 8, 9, 10 and 12 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, which Applicants regard as the invention. This rejection is respectfully traversed. Claims 8, 9 and 10 are amended for clarity by providing proper antecedent basis for the terms identified in the Office Action. Claim 12 is amended to clarify the subject matter which Applicants regard as the invention. Support for the amendment may be found at least on page 22, line 21 of the present specification. Therefore, the rejection of claims 8, 9, 10 and 12 under 35 U.S.C. § 112, second paragraph is overcome.

**III. 35 U.S.C. § 103, Alleged Obviousness, Claim 1, 4-12, 14 and 17-19**

The Office Action rejects claims 1 and 14 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ahuja et al. (U.S. Patent No. 6,175,869 B1) in view of Ebata et al. (U.S. Patent No. 6,513,061 B1). This rejection is respectfully traversed.

As to claims 1 and 14, the Office Action states:

Ahuja teaches the invention substantially as claimed including a client agent that intercepts a client request and routes it to a particular server in a pool of servers (see abstract).

As to claim 1, Ahuja teaches a method for dynamically selecting a server for a web client, in particular a web browser, in a Transmission Control Protocol/Internet Protocol (TCP/IP) network comprising a plurality of servers, said method comprising the steps of:

measuring performance and availability of each server using measurement probes (col. 4, line 14 – col. 5, line 45; Ahuja discloses that a client agent collects dynamic performance and availability data on each server for a client requesting information from a website); and,

dynamically selecting a server according to the performance and availability measurements (col. 5, lines 12-45; Ahuja discloses that the client agent makes routing decisions for the client request based on this dynamic performance and availability data).

Ahuja fails to teach the limitation wherein the server is a firewall server.

However, Ebata teaches a method for selecting a proxy server for access to an internet (see abstract). Ebata teaches the limitation of dynamically selecting a firewall server (col. 6, line 49 – col. 7, line 47; col. 2, lines 12-16; Ebata discloses the dynamic selection of a proxy server, based on location information and load condition of the proxy servers, for processing a client request to a target resource such as the WWW).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ahuja in view of Ebata by specifying the selection of firewalls instead of servers to protect the identification of the clients accessing a website. One would be motivated to do so to prevent unnecessary login and logout procedures for the clients.

Office Action dated December 8, 2003, pages 4-5,

Claim 1, which is representative of the other rejected independent claim 14, with regard to similarly recited subject matter, reads as follows:

1. A method for dynamically selecting a firewall server for a web client, in particular a web browser, in a Transmission Control

Protocol/Internet Protocol (TCP/IP) network comprising a plurality of firewall servers, said method comprising the steps of:

measuring performance and availability of each firewall server using measurement probes, wherein the step of measuring the performance and availability of each firewall server using measurement probes comprises the further step of measuring the response time needed for retrieving from a web server known information, in particular one or a plurality of known web pages, through each firewall server and wherein the step of measuring the response time comprises the further steps of:

establishing a connection with the web server through each firewall server;

retrieving the one or a plurality of known web pages from the web server; and

checking that the retrieved one or plurality of web pages contain one or a plurality of known keywords; and

dynamically selecting a firewall server according to the performance and availability measurements.

Claim 1 is amended to incorporate subject matter originally presented in claims 2 and 3. Claim 3, the subject matter of which is now incorporated into claim 1, is rejected in the Office Action under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ahuja et al. (U.S. Patent No. 6,175,869 B1) in view of Elata et al. (U.S. Patent No. 6,513,061 B1), further in view of Sathyaranayanan et al. (U.S. Patent No. 6,304,904 B1) and further in view of Dantressangle (U.S. Patent No. 6,446,120 B1).

Applicants submit that Dantressangle fails to teach or suggest the features alleged in the Office Action. In addition, the Dantressangle patent and the instant application were, at the time of the invention was made, owned by, or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (c), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The instant application was filed on or after November 29, 1999. The Dantressangle patent qualifies as prior art only under 35 U.S.C. § 102(c). And, the instant application and the Dantressangle patent were commonly owned or subject to an obligation of assignment to the same person at the time the invention was made. Therefore, the

Dantressangle patent cannot be used in a 35 U.S.C. § 103 rejection to preclude patentability. As such, the rejection is improper and should be withdrawn. Claim 14 recites subject matter similar to that addressed above with respect to claim 1 and is allowable for the same reasons. Claims 4-12 and 17-19 are dependent on claims 1 and 14, respectively, and thus, these claims distinguish over Ahuja, Ebata, Sathyanarayan and Dantressangle for at least the reasons noted above with regards to claims 1 and 14.

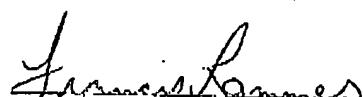
In view of the above, Applicants respectfully request withdrawal of the rejection of claims 4-12, 14 and 17-19 under 35 U.S.C. § 103(a).

#### IV. Conclusion

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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